

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1041

Introduced by Bourne, 8

Read first time January 11, 2006

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Cosmetology Act; to amend
2 sections 71-3,173 and 71-3,176, Reissue Revised Statutes
3 of Nebraska, and section 71-3,174, Revised Statutes
4 Cumulative Supplement, 2004; to change provisions
5 relating to disciplinary actions; to provide for
6 attorney's fees; to harmonize provisions; and to repeal
7 the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-3,173, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-3,173 (1) The hearing in any disciplinary action shall
4 be before the director or a hearing officer appointed by the
5 director.

6 (2) The department may impose the disciplinary actions
7 cited in section 71-155, except that no disciplinary action shall
8 be taken against any person subject to the Nebraska Cosmetology Act
9 for the conviction of a misdemeanor or felony as provided for in
10 subdivision (4) of section 71-147 unless such misdemeanor or felony
11 has a direct connection with or relation to the person's capacity
12 to practice the profession and any such disciplinary action shall
13 commence within one year after the conviction and shall not include
14 any probationary requirements, limitations, or fines that exceed
15 any restrictions or fines imposed by the court as a result of the
16 conviction.

17 (3) If the department subjects a person to disciplinary
18 action under the Nebraska Cosmetology Act which exceeds its
19 statutory powers and such disciplinary action is overturned, in
20 whole or in part, the aggrieved party shall be awarded costs and
21 reasonable attorney's fees incurred in challenging the disciplinary
22 action.

23 Sec. 2. Section 71-3,174, Revised Statutes Cumulative
24 Supplement, 2004, is amended to read:

25 71-3,174 (1) Persons, cosmetology, nail technology,

1 and electrology establishments, and body art facilities holding
2 licenses, registrations, or permits under the Nebraska Cosmetology
3 Act shall be subject to the disciplinary actions described ~~in~~
4 ~~section 71-155~~ and in sections 71-3,170 to 71-3,173 upon the
5 finding by the director that a violation has occurred.

6 (2) A person not holding a license, registration, or
7 permit under the Nebraska Cosmetology Act shall, upon conviction of
8 violation of such act, except as specific penalties are otherwise
9 imposed, be guilty of a Class II misdemeanor. Any such person
10 convicted of a second violation of the Nebraska Cosmetology Act,
11 except as specific penalties are otherwise imposed, shall be guilty
12 of a Class I misdemeanor.

13 (3) Any person engaging in any of the practices regulated
14 under the Nebraska Cosmetology Act, any person operating an
15 establishment or a facility without being duly licensed or
16 registered under the Nebraska Cosmetology Act, any person engaging
17 in the provision of home services without having complied with such
18 act, or any person found to be acting in violation of the Nebraska
19 Cosmetology Act may be restrained by a temporary or permanent
20 injunction.

21 Sec. 3. Section 71-3,176, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-3,176 Evidence of the violation of the Nebraska
24 Cosmetology Act, any rule or regulation adopted and promulgated
25 under such act, or any provision of section 71-147 or 71-148 or

1 evidence of the commission of any act of unprofessional conduct as
2 defined in the Nebraska Cosmetology Act or rules and regulations
3 adopted and promulgated under such act may be deemed grounds for
4 disciplinary action as specified ~~in section 71-155 and~~ in sections
5 71-3,170 to 71-3,174.

6 Sec. 4. Original sections 71-3,173 and 71-3,176, Reissue
7 Revised Statutes of Nebraska, and section 71-3,174, Revised
8 Statutes Cumulative Supplement, 2004, are repealed.